



BILLING CODE 3510-22

DEPARTMENT OF COMMERCE

[Docket No. 160329305-6305-01]

Privacy Act of 1974, System of Records

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of a revised Privacy Act System of Records: COMMERCE/NOAA-12, Marine Mammals, Endangered and Threatened Species, Permits and Authorizations, Applicants.

SUMMARY: This notice announces the Department of Commerce's (Department's) proposal to amend a System of Records under the 1974 Privacy Act. The National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS) is amending their system of records for marine mammal and threatened and endangered species permit and authorization programs. Information will be collected from individuals and entities under the authority of the Marine Mammal Protection Act and the Endangered Species Act. This record system is necessary to identify permit and authorization applicants and to evaluate the qualifications of the applicants.

DATES: To be considered, written comments must be submitted on or before [insert date 30 days from publication in the FEDERAL REGISTER]. Unless comments are received, the amended system of records will become effective as proposed on [insert date 40 days from publication in the FEDERAL REGISTER]. If comments are received, the Department will publish a subsequent notice in the FEDERAL REGISTER within 10 days after the comment period closes, stating that the current system of records will remain in effect until publication of a final action in the FEDERAL REGISTER.

ADDRESSES: Comments may be mailed to Amy Sloan, Deputy Chief, Permits and Conservation Division, NOAA, National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, F/PR1 Room 13824, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Amy Sloan (Phone: 301-427-8401; Email: Amy.Sloan@noaa.gov).

SUPPLEMENTARY INFORMATION: NMFS is amending its system of applicant records for use with marine mammal and threatened and endangered species permit and authorization programs to make minor administrative updates including updating addresses where records are located and how records are stored. The Marine Mammal Protection Act, Fur Seal Act, and Endangered Species Act prohibit certain actions affecting marine mammals and endangered and threatened species, with limited exceptions. Permits involving marine mammals and endangered and threatened species can be obtained for scientific research, enhancing the survival or recovery of a species or stock, commercial and educational photography, and import and capture for public display. Authorizations can be obtained for scientific research that involves minimal disturbance. Also U.S. citizens may request and obtain, authorizations for the incidental taking of marine mammals for specified activities other than commercial fishing. Owners of a commercial vessel or non-vessel gear engaging in a Category I or II fishery must obtain a marine mammal authorization certificate from NOAA Fisheries, or a designated agent, to lawfully incidentally take a marine mammal in a commercial fishery. NMFS collects information from individuals in order to issue, amend, or renew permits or authorizations.

COMMERCE/NOAA-12

SYSTEM NAME: COMMERCE/NOAA-12, Marine Mammals, Endangered and Threatened Species, Permits and Authorizations Applicants.

SECURITY CLASSIFICATION: None.

SYSTEM LOCATION:

a. NMFS, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD 20910.

b. NMFS, Greater Atlantic Regional Fisheries Office. 55 Great Republic Drive, Gloucester, MA 01930-2276.

c. NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg FL 33701.

d. NMFS, West Coast Region, Sustainable Fisheries Division, 7600 Sand Point Way NE, Bldg. #1, Seattle, WA 98115.

e. NMFS, West Coast Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

f. NMFS, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA 92037.

g. NMFS, Pacific Islands Region, Ford Island Honolulu at 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

h. NMFS, Alaska Region, 709 West Ninth Street, Juneau, AK 99802-1668.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers, wildlife managers, photographers, holders of marine mammals in captivity, corporations, partnerships, associations, organizations, Federal, state, local or tribal governments and other members of the public seeking exceptions to prohibited activities related to marine mammals and endangered and threatened species, and owners of commercial fishing vessels engaged in Category I or II fisheries seeking an exception to prohibited activities on marine mammals and endangered and threatened species.

CATAGORIES OF RECORDS IN THE SYSTEM:

This information is collected and/or maintained by all regions and divisions: Permit or authorization number, permit and authorization status information; type of application, name of applicant and of other individuals on application, affiliations, addresses, e-mail addresses, and telephone and fax numbers. For marine mammal and threatened and endangered species special exception permits and authorizations, the following information is also included: qualifications of individuals listed on the applications and a description of proposed activities.

For the marine mammal authorization program (MMAP), if a commercial fisherman has a state or Federal fishery license, they are not required to submit information to NMFS. Their registration is automatically renewed by mail and their registration information is not stored in this system, but in the applicable regional Sustainable Fisheries Permit Office. For those without a state or Federal fishery license, the following information is included: Name, address, and telephone number of the owner(s) of a vessel or non-vessel gear and name and address of the operator if other than the owner; name and length of the vessel, home port, United States Coast Guard (USCG) documentation number or State registration number, State commercial license number of the fishing vessel which will operate under the authorization, and for a non-vessel fishery, a description of the gear and state commercial license number; a list of the fishery(s) in which the fisher will be engaged; for an individual, social security number and date of birth of the owner(s) of a vessel or non-vessel gear; and for a business, corporation name, employer identification number and date of incorporation. Any time there is an incidental or intentional mortality or injury to a marine mammal during commercial fishing activities, the following information must be submitted by all authorized fisheries (electronically or by mail): name of

vessel owner/operator or permit holder, mailing address, vessel name, fishery gear type and target species, and information about the marine mammal mortality/injury incident.

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM:

The Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*; the Fur Seal Act, 16 U.S.C. 1151 *et seq.*; and the Endangered Species Act, 16 U.S.C. 1531 *et seq.* [For collection of the Tax Identifying Number (Employer Identification Number or Social Security Number), 31 U.S.C. 7701.]

PURPOSES: This information will allow NMFS to identify applicants and holders of permits and authorizations, identify vessel owners, evaluate requests by applicants, or agency actions, related to the issuance, renewal, revocation, suspension or modification of a permit or authorization.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a (b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the Department. These records or information contained therein may specifically be disclosed as a routine use as stated below. The Department will, when so authorized, make the determination as to the relevancy of a record prior to its decision to disclose a document.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute or contract, rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred to the

appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, rule, regulation, or order issued pursuant thereto, or protecting the interest of the Department.

2. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether the Freedom of Information Act (5 U.S.C. 552) requires disclosure thereof.

5. A record in this system may be disclosed to the Department of Homeland Security for the purposes of determining the admissibility of certain marine mammal or threatened or endangered species or species parts imports into the United States.

6. A record in this system will be disclosed to the Department of Treasury for the purpose of reporting and recouping delinquent debts owed the United States pursuant to 31 U.S.C. 7701 (this applies to MMAP permittees only).

7. A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

8. A record in this system of records may be disclosed to appropriate agencies, entities, and persons when: (1) it is suspected or determined that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identify theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Department decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

10. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local, or international agency, in response to its request, in connection with the assignment, hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

11. A record in this system of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in

OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

12. A record in this system may be transferred, as a routine use, to the Office of Personnel Management: for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

13. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services Administration (GSA), or his designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e. GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,

RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Online application system (Authorizations and Permits for Protected Species only for scientific research permits and authorizations; <https://apps.nmfs.noaa.gov/>); other computerized databases; CDs; paper records stored in file folders in cabinets and/or storage rooms; electronic files maintained on the agency's network server.

RETRIEVABILITY:

Records are organized and retrieved by NMFS internal identification number or permit or authorization number; name of entity or vessel name or identification number. Records can be accessed by any file element or any combination thereof.

SAFEGUARDS:

The paper systems of records are stored in buildings with doors that are locked during and after business hours. Visitors to the facilities must register with security guards and must be accompanied by Federal personnel at all times. The electronic systems of records are stored on the agency's network servers. Electronic records containing Privacy Act information are protected by a user identification/password.

All electronic information disseminated by NOAA adheres to the standards set out in Appendix III, Security of Automated Information Resources, OMB Circular A-130; the Computer Security Act (15 U.S.C. 278g-3 and 278g-4); and the Government Information Security Reform Act, Public Law 106-398; and follows NIST SP 800-18, Guide for Developing Security Plans for Federal Information Systems; NIST SP 800-26, Security Self-Assessment Guide for Information Technology Systems; and NIST SP 800-53, Recommended Security and Privacy Controls for Federal Information Systems and Organizations.

RETENTION AND DISPOSAL:

All records are retained and disposed of in accordance with National Archive and Records Administration regulations (36 CFR chapter XII, subchapter B – Records Management); Departmental directives and comprehensive records schedules; NOAA Administrative Order 205-01; and the NMFS Records Disposition Schedule, Chapter 1500.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location a.: Office of Protected Resources, NMFS Headquarters, 1315 East-West Highway, Silver Spring, MD 20910.

For records at location b.: Office of Protected Resources, NMFS Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930-2276.

For records at location c.: Office of Protected Resources, NMFS Southeast Region, 263 13th Avenue South, St. Petersburg FL 33701.

For records at location d.: Office of Protected Resources, West Coast Region, Sustainable Fisheries Division, 7600 Sand Point Way NE, Bldg. #1, Seattle, WA 98115.

For records at locations e and f.: Office of Protected Resources, NMFS West Coast Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

For records at location g.: Office of Protected Resources, NMFS, Pacific Islands Region, Ford Island Honolulu at 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

For records at location h.: Office of Protected Resources, NMFS Alaska Region, 709 West Ninth Street, Juneau, AK 99802-1668.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about them is contained in this system should address written inquiries to the national or regional Privacy Act Officer:

Privacy Act Officer, NOAA, 1315 East-West Highway, Room 9719, Silver Spring MD 20910.

Privacy Act Officer, NMFS, 1315 East-West Highway, Room 13706, Silver Spring MD 20910.

Privacy Act Officer, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930-2276.

Privacy Act Officer, NMFS Southeast Region, 263 13th Avenue South, St. Petersburg FL 33701.

Privacy Act Officer, NMFS West Coast Region, 7600 Sand Point Way NE, Bldg. #1, Seattle, WA 98115.

Privacy Act Officer, NMFS West Coast Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

Privacy Act Officer, NMFS Pacific Islands Region, Ford Island Honolulu at 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

Privacy Act Officer, NMFS Alaska Region, P.O. Box 21668, Juneau, Alaska 99802, or delivered to the Federal Building, 709 West 9th Street, Juneau, Alaska, 99802-1668.

Written requests must be signed by the requesting individual. Requestor must make the request in writing and provide his/her name, address, and date of the request and record sought. All such requests must comply with the inquiry provisions of the Department's Privacy Act rules which appear at 15 CFR part 4, appendix A.

RECORD ACCESS PROCEDURES:

Requests for access to records maintained in this system of records should be addressed to the same address given in the Notification Procedure section. **Note:** Complete records for jointly-owned permits are made accessible to each owner upon his/her request.

CONTESTING RECORDS PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned are provided for in 15 CFR part 4, appendix A.

RECORD SOURCE CATEGORIES:

Information in this system will be collected from individuals or entities applying for a permit or authorization.

EXEMPTIONS CLAIMED FOR THE SYSTEM: None.

Dated:
July 5, 2016

Michael J. Toland,
Department of Commerce
Freedom of Information/Privacy Act Officer.

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